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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,439	04/11/2006	Jun Asakura	40213	1889
53054 7590 06/04/2009 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER BATISTA, MARCOS				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
06/04/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/575,439

**Applicant(s)**

ASAKURA, JUN

**Examiner**

MARCOS BATISTA

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Action is in response to Applicant's amendment filed on 03/05/2009. Claims 1-4 are still pending in the present application. This Action is made **FINAL**.

#### ***Response to Arguments***

2. Applicant's arguments filed on 03/05/2009 have been fully considered but they are not persuasive.

After carefully revising the office action pertinent to the present response and remarks, the following main point(s) have been identified:

1) The Applicant states that Go does not inhibit signal transmission during the slide move state (refer to page 6 lines 5-6 of the Applicant's remarks);

2) The Applicant states that Ohta teaches away from the combination because it does not perform a call connection until the lid is open (refer to page 6 lines 12-13 of the Applicant's remarks).

Regarding point 1), Go discloses reducing or eliminating the noise that are produced as the phone slide to an open or closed position. By eliminating the noise, Go is preventing (i. e., inhibiting) unwanted noise, which when captured by the microphone is converted to signal, from being captured by the microphone. Therefore not noise or signal is transmitted within the phone circuitry and the phone input and output sections are noise-free. Go – Column 3, “*The diameters of the cam hole 54 and cover hole 72 are made greater than the diameter of the wire 80 to allow **sliding motions** of the cam hinge 50 and hinge cover 70 along the wire upon opening or closing of the flip from or to the main set,*” and “*Thus, the audio **signal generated** by the microphone mounted in the flip 200 can be transferred to the audio circuit by means of the mechanical contact device including the conductor*

*caps and electrical contact surfaces. Preferably, the radiophone includes circuitry or software for reducing or **eliminating the noises** caused by the opening and closing of the flip."*

Regarding point 2), Ohta teaches a positional relation sensing unit which senses the relative position relation between the first cabinet and the second cabinet. As taught by Ohta, regardless of the phone type, a person of ordinary skill in the art at the time of the invention would have modified the teachings of Go with Ohta 's teachings of sensing the opening/closing feature to arrive at the claimed invention. Ohta invention is in the same field of invention and in the same field of endeavor as the claimed invention.

Ohta – paragraph 31, *"FIG. 2 is a block diagram showing the internal configuration of a radio terminal according to the first embodiment. In FIG. 2, sections same as those in FIG. 1 (external view of the radio terminal) are assigned the same numerals/signs. As shown in FIG. 2, the radio terminal 100 of the first embodiment comprises an antenna 151, a radio section 153, a controller 155 corresponding to the control means according to the invention, a motor 111 corresponding to the top lid opening/closing means, a motor driving button 121 corresponding to corresponding to switch means, an operation button 117, and a top lid state detector 157 corresponding to the top lid open/closed state detecting means."*

Therefore, the argued features are written such that they read upon the cited reference(s).

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Go (US 6091938 A), hereafter "Go," in view of Ohta et al. (EP 1345389 A1), hereafter "Ohta," further in view of Mizuta et al. (US 20030211874 A1), hereafter " Mizuta."

Consider claim 1, Go discloses a voice input section (see fig. 5 #10, col. 3 lines 40-44); a voice output section (see col. 1 lines 44-49 – where Go discloses an audio circuit that is connected to the main body of telephone 300 of figure 1); a communication section for communicating a voice signal input from the voice input section to an intended party (see fig. 1, col. 3 lines 56-61 – Where Go discloses making a call, therefore using the telephone components shown in figure 1 (antenna)); a voice control unit which inhibits signal transmission from the voice input section to the voice output section and signal transmission from the voice input section to the communication section for muting if the first and second cabinets are in a slide move from an open state to a closed state and which inhibits signal transmission from the voice input section to the voice output section and signal transmission from the voice input section to the communication section for muting if the first and second cabinets are in a slide move from the closed state to the open state based on output of the positional relation sensing unit (see col. 3 lines 30-35 and 64-67, col. 4 lines 1-3 – Where Go discloses using circuitry or software to eliminate noise caused by closing and opening the radio telephone and that can be transferred to the audio circuitry means by the microphone 10).

Go discloses claim 1 above, but does not particular refer to a positional relation sensing unit which senses the relative position relation between the first cabinet and the second cabinet. Ohta teaches a positional relation sensing unit which senses the relative position relation between the first cabinet and the second cabinet (see abstract, Fig 2 #159, pars. 0007 lines 1-8, 0020 lines 1-9)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Go and have it include a positional relation

sensing unit which senses the relative position relation between the first cabinet and the second cabinet, as taught by Ohta. The motivation would have been in order to provide means for detecting when the radio telephone is in either the open or closed position (see par. 0007 lines 1-8).

Go as modified by Ohta discloses claim 1 above, but does not particular refer to a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet.

Mizuta teaches a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet (see Fig 2 (a), Fig 4 (a), abstract, par. 0006 lines 1-6).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Go as modified by Ohta and have it include a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet, as taught by Mizuta. The motivation would have been in order to provide portability and functionality conveniences to the user (see Fig 2 (a), Fig 4 (a), abstract, par. 0006 lines 1-6).

Consider claim 2, Go as modified by Ohta and Mizuta discloses claim 1. Ohta also teaches voice control unit continues the muting for predetermined time period from the point in time when the first and second cabinets enter the open state or the closed state from the transition state, and wherein the voice control unit releases the muting after the expiration of the predetermined time period (see Fig 7 #S705, par. 0043 lines 1-12). The motivation would have

been in order to operate the muting section to prevent a noise of the top lid opening/closing means from reaching the caller (see par. 0013 lines 1-16).

Consider claim 3, Go as modified by Ohta and Mizuta teaches claim 1 above, but does not particular refer to the positional relation sensing unit comprises: a magnetic material provided at least in one of the first cabinet and the second cabinet or a magnetic sensing element, provided in the cabinet opposed to the cabinet in which the magnetic material is disposed, for sensing a magnetic field of the magnetic material cabinet.

Mizuta discloses a magnetic material sensor provided at least in one of the first cabinet and the second cabinet (see Fig 11 #210, #106, [0031], [0036]); a magnetic sensing element, provided in the cabinet opposed to the cabinet in which the magnetic material is disposed, for sensing a magnetic field of the magnetic material cabinet (see Fig 11 #210, #106, [0031], [0036]). The motivation would have been in order to provide a positioning detection mechanism with respect to the opening or closing of the radio terminal (see Fig 11 #210, #106, [0031], [0036]).

Consider claim 4, Go as modified by Ohta and Mizuta teaches claim 1. Ohta also teaches the positional relation sensing unit comprises a switch which is provided at least in one of the first cabinet and the second cabinet and is pressed as the opposed cabinet makes a slide move (see Fig 6 #301, Fig 7 #S703, pars. 0040 lines 1-12, 0041 lines 1-10 – where Ohta teaches a controller that switches the muting section as the radio terminal opens/closes). The motivation would have been in order to operate the muting section to prevent a noise of the top lid

opening/closing means from reaching the caller (see par. 0013 lines 1-16).

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marcos Batista, whose telephone number is (571) 270-5209. The Examiner can normally be reached on Monday-Thursday from 8:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Pérez-Gutiérrez can be reached at (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished



applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*/Marcos Batista/*  
Examiner

*/Rafael Pérez-Gutiérrez/*  
Supervisory Patent Examiner, Art Unit 2617

05/29/2009